

## **IC 15-3-4**

### **Chapter 4. Destruction of Detrimental Plants**

#### **IC 15-3-4-1**

##### **Time and method of destruction**

Sec. 1. (a) As used in this chapter, "detrimental plant" includes Canada thistle (*cirsium arvense*), Johnson grass, sorghum alumun (*sorghum halrphense*), bur cucumber (*sicyos angulatus*), shattercane (*Sorghum bicolor* [L.] Moench spp. *drummondii* [Steud.] deWet), and, in residential areas only, noxious weeds and rank vegetation. The term does not include agricultural crops.

(b) As used in this chapter, "person" means an individual, an incorporated or unincorporated organization or association, a trustee or legal representative, the state, a political subdivision (as defined in IC 36-1-2-13), an agency of the state, or a political subdivision, or a group of those persons acting in concert.

(c) A person owning or possessing real estate in Indiana shall destroy detrimental plants by cutting or mowing and, if necessary, by plowing, cultivating, or smothering, or by the use of chemicals in the bud stage of growth or earlier, to prevent those detrimental plants from maturing on any such real estate.

*(Formerly: Acts 1929, c.122, s.1; Acts 1953, c.16, s.1.) As amended by P.L.183-1983, SEC.68; P.L.191-1987, SEC.1; P.L.182-1989, SEC.1.*

#### **IC 15-3-4-2**

##### **Notice to destroy; destruction by township trustees; exemption from liability**

Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) Except as provided in subsection (c), if the township trustee determines after investigating the property or by visual inspection without entering the property that a person has detrimental plants growing on real estate in the township that have not been destroyed as described in section 1 of this chapter, the trustee of the township in which the real estate is located shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for

gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(d) Notice required in subsection (a) or (b) may be given:

(1) by mail, using certified mail; or

(2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

*(Formerly: Acts 1929, c.122, s.2; Acts 1937, c.140, s.1; Acts 1953, c.16, s.2.) As amended by P.L.183-1983, SEC.69; P.L.191-1987, SEC.2; P.L.99-1998, SEC.1.*

### **IC 15-3-4-3**

#### **Payment for work; use of power machinery; statement of costs; collection as taxes**

Sec. 3. (a) The township trustee may pay for the chemicals, work, and labor performed in cutting or destroying detrimental plants under this chapter at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) In all cases in which the infestation of the land with detrimental plants is so great and widespread as in the opinion of the trustee to render such cutting or eradication by hand methods impractical, the trustee shall engage the necessary power machinery or equipment and may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the trustee of the township, and when the bill has been approved the trustee shall pay the bill out of the township fund. The trustee of the township shall certify the cost or expense of the work, and the cost of the chemicals, adding to such bill twenty dollars (\$20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services, with a description of the real estate on which the labor was performed.

(d) The certified statement of costs prepared under subsection (c) shall be mailed using certificate of mailing to, or personally served on, the owner or person possessing the real estate. The certified statement shall be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

The statement shall request that the person pay the cost of performing the service under subsection (c) to the township trustee.

(e) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (d), the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(f) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (j) through (l), the amount claimed shall be collected as taxes are collected.

(g) After an amount described in subsection (f) is collected, the funds shall be deposited in the trustee's township funds for use at the discretion of the trustee.

(h) If there is no money available in the township fund for that purpose the township board, upon finding an emergency exists, shall act under IC 36-6-6-14(b) or IC 36-6-6-15 to borrow a sum of money sufficient to meet the emergency.

(i) The trustee, when submitting estimates to the township board for action, shall include in the estimates an item sufficient to cover those expenditures.

(j) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(k) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement of costs for real estate owned by the municipality.

(l) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption and the department of local government finance shall deny the property tax exemption for the real estate.

*(Formerly: Acts 1929, c.122, s.3; Acts 1937, c.140, s.2; Acts 1947, c.109, s.1; Acts 1953, c.16, s.3.) As amended by P.L.183-1983, SEC.70; P.L.8-1987, SEC.33; P.L.191-1987, SEC.3; P.L.141-1996, SEC.1; P.L.90-2002, SEC.379.*

#### **IC 15-3-4-4**

##### **Collection of expenditure with taxes**

Sec. 4. Except as provided in section 3 of this chapter, the county auditor, upon receiving and filing such trustee's certificate as prescribed in this chapter, shall immediately place said amounts on the tax duplicate of the county and such amounts shall be due at the next tax paying time, and shall be collected for the proper township

or townships, the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales, and when so collected shall be paid to the proper trustee and placed in the township fund.

*(Formerly: Acts 1929, c.122, s.4; Acts 1937, c.140, s.3.) As amended by P.L.183-1983, SEC.71; P.L.141-1996, SEC.2.*

#### **IC 15-3-4-5**

##### **Failure to eradicate; selling seed**

Sec. 5. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on land owned, or possessed by the person;
- (2) knowing of the existence of detrimental plants on land owned, or possessed by the person, fails to cut them down or eradicate them by chemicals each year, as prescribed in this chapter;
- (3) having charge of or control over any highway, knowingly allows detrimental plants to grow or mature on the right-of-way of the highway, or, knowing of the existence of the detrimental plants fails to cut them down or eradicate them by chemicals, as prescribed in this chapter;
- (4) having charge of or control over the right-of-way of a railroad or interurban company, knowingly allows detrimental plants, to grow and mature thereon, or knowing of the existence of the detrimental plants, fails to cut them down or eradicate them by chemicals, as prescribed in this chapter; or
- (5) knowingly sells Canada thistle (*cirsium arvense*) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the trustee's township funds for use at the discretion of the trustee.

*(Formerly: Acts 1929, c.122, s.5; Acts 1953, c.16, s.4.) As amended by Acts 1978, P.L.2, SEC.1518; P.L.191-1987, SEC.4.*

#### **IC 15-3-4-6**

##### **Failure of township trustee to perform duties**

Sec. 6. A township trustee who fails to perform the duties required of him by this chapter commits a Class C infraction.

*(Formerly: Acts 1929, c.122, s.6.) As amended by Acts 1978, P.L.2, SEC.1519.*

#### **IC 15-3-4-7**

##### **Budget**

Sec. 7. When the annual budget is prepared, a sufficient amount shall be appropriated to enable the township officials to comply with this chapter.

*(Formerly: Acts 1929, c.122, s.8.) As amended by P.L.183-1983, SEC.72; P.L.191-1987, SEC.5.*

**IC 15-3-4-8****Assistance to township trustees**

Sec. 8. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

*As added by P.L.191-1987, SEC.6. Amended by P.L.40-1993, SEC.14.*

**IC 15-3-4-9****Exemption of land subject to program**

Sec. 9. The director of the department of natural resources or the dean of agriculture of Purdue University may totally or partially exempt land that is subject to a program of the department or station from this chapter or any other statute concerning the destruction of detrimental plants.

*As added by P.L.191-1987, SEC.7. Amended by P.L.182-1989, SEC.2; P.L.40-1993, SEC.15.*